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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,030	11/27/2000	Ronald Kronenbeger		5660

7590

12/03/2001

WOOD, PHILLIPS, VAN SANTEN, CLARK & MORTIMER  
SUITE 3800  
500 WEST MADISON STREET  
CHICAGO, IL 60661

EXAMINER

MORAN, KATHERINE M

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 12/03/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/723,030

Applicant(s)

KRONENBEGER, RONALD

Examiner

Katherine M Moran

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3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 9-14 and 16-22 is/are rejected.
- 7) ☒ Claim(s) 4, 6-8 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/27/00 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## **DETAILED ACTION**

### ***Drawings***

1. Color photographs and color drawings are acceptable only for examination purposes unless a petition filed under 37 CFR 1.84(a)(2) or (b)(2) is granted permitting their use as formal drawings. In the event applicant wishes to use the drawings currently on file as formal drawings, a petition must be filed for acceptance of the photographs or color drawings as formal drawings. Any such petition must be accompanied by the appropriate fee as set forth in 37 CFR 1.17(i), three sets of drawings or photographs, as appropriate, and an amendment to the first paragraph of the brief description of the drawings section of the specification which states:

The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee.

Color photographs will be accepted if the conditions for accepting color drawings have been satisfied.

### ***Claim Objections***

2. Claim 20 is objected to because of the following informalities: A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim. A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n). Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 5, 9-14, and 16-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Dow (U.S. 5,903,921). Dow '921 discloses the invention as claimed. Dow teaches headgear 36 with front and rear portions, crown 40 with a head-engaging portion extending through 360 degrees, and foam visor 44 projecting in a forward direction away from the crown, wherein the visor has a relaxed state and a first width dimension taken transversely to a fore-and-aft line and a cylindrical deformed state with a second width dimension that is less than the first width dimension. At least one holding element in the form of a string material 56 maintains the visor in a deformed state with the second width dimension. In the alternative, band 46,48 has first and second parts joined together by hook and loop 22,26. In both cases, the crown may be folded against itself, the visor, or against itself and the visor. The crown may also comprise a head-engaging portion which extends through less than 360 degrees, such as in a visor 10.

5. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Barbaccia (U.S. 5,991,927). Barbaccia '927 discloses the invention as claimed. Barbaccia teaches a headwear piece 10 having a front and rear, crown, and visor 12 projecting in a forward direction away from the crown. The visor has a relaxed state with a width dimension taken transversely to a fore-and-aft line and a deformed state with a second width that is less than the first width

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dimension, and at least one continuous band 20 maintaining the visor in a deformed state with the second width dimension.

***Allowable Subject Matter***

6. Claims 4, 6-8, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cho (U.S. 5,862,522), Robbins (U.S. 6,059,246), Gore (U.S. 6,138,279), and Park (U.S. 6,311,331) teach relevant prior art.

Any inquiry concerning this communication or earlier communications should be directed to Examiner Katherine Moran at (703) 305-0452. The examiner can be reached on Monday-Thursday from 8:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, may be reached at (703) 305-1025. The fax number for the organization where this application is assigned is (703)308-0758.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist at (703) 308-1148.

Kmm

November 7, 2001

  
JOHN S. CALVERT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700